

**SEMINOLE NATION OF OKLAHOMA**  
**AND**  
**INDEPENDENT CONTRACTOR AGREEMENT**

This Independent Contractor Agreement (the "Agreement") is made and entered into effective as of the \_\_\_ day of \_\_\_\_\_, 2013 (the "Effective Date"), by and between the SEMINOLE NATION OF OKLAHOMA (hereinafter referred to as the "Nation"), and \_\_\_\_\_ (hereinafter referred to as the "Independent Contractor").

**WITNESSETH:**

NOW, THEREFORE, in consideration of the premises, and of the mutual covenants hereafter set forth, the parties hereto agree as follows:

1. Services: The Nation hereby engages the Independent Contractor to perform, and the Independent Contractor agrees to perform, the services set forth in the SEMINOLE NATION WATERLINE PROJECT (hereinafter referred to as PROJECT) attached hereto for performance of and made a part hereof, together with such other and further services reasonably incidental thereto (the "Services"). If applicable, the Independent Contractor is, and will continue to be, licensed and certified by all appropriate jurisdictions to perform the Services.
2. Term: The term of this Agreement shall begin on the Effective Date and continue for a term of five (5) weeks from the Effective Date. The term of this Agreement may be extended by mutual written agreement of the parties. In compliance with other sections of the Agreement, all work and invoices shall be submitted by Independent Contractor to the Nation prior to the closing date of this Contract. [Note: This time frame is negotiable based on the bid.]
3. Compensation: The Independent Contractor shall submit invoices for payment of services, on an appropriate form approved by the Nation.
  - a. Base Fee: In consideration of the services to be rendered, the Nation shall pay the Independent Contractor a fee not to exceed a total of \$\_\_\_\_\_.00 for the services described in the PROJECT. If additional services described in the PROJECT exceed the itemized amount, the fee for that item shall be prorated and paid at the ending of this Agreement.
  - b. Travel and Per Diem: Travel and per diem shall not be paid to the Independent Contractor for Services performed.
  - c. If the Contractor fails to complete the work within the time specified in the contract the Contractor shall pay liquidated damages to the Seminole Nation of Oklahoma in the amount Five Hundred (\$500.00) dollars for each calendar day of delay until the work is complete or accepted.
4. Termination by the Nation for Cause: The Nation shall have the right to terminate this Agreement for cause in the event of the Independent Contractor's material breach of any provision of Section 1 or Schedule 1 of this Agreement at any time upon ten (10) days

written notice to the Independent Contractor. Upon termination of this Agreement, no further payments of any type shall be made or shall be payable to Independent Contractor hereunder except for service already rendered.

5. Termination for Convenience. The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Nation's interest. If this contract is terminated, the Nation shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
6. Termination by Independent Contractor: Since this Agreement is for a term of approximately five (5) weeks, this Agreement may be terminated by the Independent Contractor at any time upon ten (10) days written notice to the Nation. In such event, no further requests for payment of remaining service shall be made by the Independent Contractor hereunder.
7. Confidential Information: The Independent Contractor shall not, either during the term of this Agreement or at any time thereafter the termination of this Agreement for any reason whatsoever, disclose to any person, other than in the discharge of his duties as Independent Contractor under this Agreement, any information concerning (a) the business operations, or internal structure of the Nation, (b) the customers or clients of the Nation, (c) the Independent Contractor's work performed for any customer or client of the Nation or (d) any method and/or procedure relating or pertaining to projects developed by the Nation or contemplated by the Nation to be developed. Further, upon termination of the Agreement for any reason whatsoever, the Independent Contractor shall not take with him or her, without the prior written consent of the Nation, any drawing, blueprint and/or other reproduction, or any data, reports, programs, tapes, card decks, listings, programming documentation or any other written, graphic or recorded information relating or pertaining to the confidential information or work product of the Nation. If a violation by the Independent Contractor of the provisions of this Section would cause irreparable injury to the Nation and there is no adequate remedy at law for such violation, the Nation shall have the right, in addition to any other remedies available to it at law or in equity, to enjoin the Independent Contractor in a court of equity for violating such provisions.
8. Independent Contractor: The Independent Contractor is not an employee of the Nation. The Independent Contractor acknowledges they shall be solely responsible to remit all applicable taxes, whether state or federal including, but not limited to, FICA and other items that are typically withheld by employers. The Independent Contractor shall not be entitled to receive any benefits which employees of the Nation are entitled to receive and shall not be entitled to workers' compensation, unemployment compensation, medical or life insurance, paid vacations or holidays, pension, profit sharing or social security from the Nation. The Independent Contractor agrees to carry liability insurance, both professional, if applicable, and otherwise, with companies and coverage reasonably satisfactory to the Nation covering the duties performed hereunder and shall indemnify the Nation and its Officers against any loss, claim or demand arising out of or related to the Independent Contractor's performance of his duties hereunder.

9. No Conflicting Agreements: Independent Contractor represents and warrants that he or she is not a party to any agreement, contract, or understanding, whether employment or otherwise, which would in any way restrict or prohibit him from undertaking or performing his service in accordance with the terms and conditions of this Agreement.
10. Permitted Assignees and Successors: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, representatives, successors and permitted assignees. Independent Contractor may not assign his or her rights or obligations hereunder without the prior written consent of the Nation.
11. Notices: Any notice or communication required or permitted hereby shall be in writing and shall be delivered personally, sent by facsimile, sent by email or followed with a confirming letter if verbal, or mailed with postage prepaid:

(a) If to Independent Contractor:

---

NAME

---

STREET ADDRESS

---

CITY, STATE, ZIP CODE

(b) If to the Nation:

Chris D. Cutler, P.E.  
Seminole Nation Transportation Department  
12555 NS3540  
Seminole, OK 74868

(c) With a copy to:

Tammy Norris  
P.O. Box 1498  
Wewoka, OK 74884  
FAX (405) 257-7239

or in the case of each party hereto, to such other address and to the attention of such other person as may have theretofore been specified in writing in like manner by such party to the other party. Each such notice or communication shall be deemed to have been given as of the date so delivered or at the expiration of the third day following the date of mailing.

12. Contract Disputes: The termination of the Contract shall extinguish all rights, duties, obligations, and liabilities of the Nation and the Contractor under this Contractual Agreement. If the potential termination of this Contract is due to the failure of either party to fulfill a contractual obligations set forth herein, the non-breaching party will notify the party alleged to be in breach that possible breach of contract has occurred. The

party alleged to be in breach shall make a good faith effort to remedy the breach as outlined by the non-breaching party within a mutually agreed upon reasonable period of time. Should a mutually agreed remedy not be reached, this Contract shall be subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613), however the Nation does not waive its sovereign immunity.

13. Governing Law: The Nation does not waive, limit or modify its sovereign immunity. The law governing this contract shall be the laws of the Seminole Nation of Oklahoma and the Seminole Nation Tribal Court where applicable, and where the laws of the Nation do not address an issue of law, federal law shall apply. No state law shall apply unless a specific federal law expressly requires such applicability to the Nation. Any dispute arising under this contract shall be first addressed through the Nation's Administrative Appeals Board
14. Severability: If any provision of this Agreement is deemed or held to be illegal, invalid, or unenforceable, under present or future laws effective during the term hereof, this Agreement shall be considered divisible and inoperative as to such provision to the extent it is deemed to be illegal, invalid, or unenforceable, and in all other respects this Agreement shall remain in full force and effect; provided, however, that if any provision of this Agreement is deemed or held to be illegal, invalid, or unenforceable there shall be added hereto automatically a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. Further, should any provision contained in this Agreement ever be reformed or rewritten by any judicial body of competent jurisdiction, such provision as so reformed or rewritten shall be binding upon Independent Contractor and the Nation.
15. Amendments: This Agreement may be amended only by an instrument in writing signed by the parties hereto.
16. Ownership: Equitable Ownership of the property belongs to Nation. Any construction material that is delivered to the property belongs to Contractor until payment for such material is made by Nation, which at such time shall become property of Nation. Upon Acceptance, Nation shall own all designs, drawings, blueprints and other Project-related documentation.
17. Contractor Inspection Requirements: The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the supplies or services furnished under this contract conform to contract requirements, including any applicable technical requirements for specified manufacturers' parts. This clause takes precedence over any Tribal inspection and testing required in the contract's specifications, except for specialized inspections or tests specified to be performed solely by the Nation.
18. Warranties and Completion: Contractor agrees to guarantee the work on the Project against defects in materials or workmanship for a period of one (1) year from the date of

Acceptance. Contractor's warranty excludes damage or defects caused by improper operation, or normal wear and tear under normal usage.

19. Clean-up: Contractor will at all times make reasonable efforts to keep the site free from waste and other materials caused by construction work and, upon completion of the work, Contractor shall remove all waste, equipment, and other materials from the premises, with the exception of vegetation, and leave the Facility in a neat and orderly condition. Contractor is not responsible for erosion control.
20. Attorney's Fees: If on account of any breach or default by either party hereunder, it shall become necessary for the other party hereto to employ an attorney to enforce or defend any of said party's rights or remedies hereunder, the prevailing party shall be paid by the other party any reasonable attorney's fees and related costs incurred by the prevailing party by reason of such proceedings, breach or default.
21. Insurance/Bond: Pursuant to applicable laws, the Independent Contractor shall be required to maintain sufficient insurance to insulate the Nation from liability.
22. Workers' compensation and employer's liability: Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers. (See 28.305( c) for treatment of contracts subject to the Defense Base Act.)
23. Automobile liability: The Contracting Officer shall require automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.
24. General liability: The contracting officer shall require bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence.

Contractor will submit a Certificate of Liability Insurance naming the Nation as the Certificate Holder for the term of the Contract.

25. Equal Employment Opportunity: The Nation complies with Executive Order 11246 (E.O. 11246) as amended and supplemented and prohibits discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Nation complies and requires covered contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of employment of contractors and subcontractors.

The Nation complies with the Copeland Anti-Kickback act as supplemented. Any attempt by any contractor or subcontractor under this agreement, whether by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work shall not be tolerated and shall result in termination of this contract by the Nation.

26. Indian Self-Determination and Education: The work to be performed under this Contract is on a project subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 USC 450b), (Indian Act). Section 7(b) requires that to the greatest extent feasible:

- (A) Preferences and opportunities for training and employment shall be given to Indians; and
- (B) Preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

The parties to this Contract shall comply with the provisions of Section 7(b) of the Indian Act.

In connection with this Contract, the contractor shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preferences and opportunities for training and employment to Indians.

The contractor shall include this Section 7(b) clause in every subcontract in connection with the project, and shall, at the direction of the Nation, take appropriate action pursuant to the subcontract upon a finding by the Nation or HUD that the subcontractor has violated the Section 7(b) clause of the Indian Act.

27. Reporting, Record Keeping, and Record Retention

The Contractor will deliver to the nation three (3) (hard) copies of the Final Report on or before \_\_\_\_\_. This is in addition to two (2) sets of the Final Report that will include “As-Builts” and maps in the \*.pdf format, and two (2) sets of the photographs in the \*.jpeg format. The “As-Builts” will become the property of the Nation.

The Nation, any Contractor or Sub-Contractor, Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the contractor which are directly

pertinent to that specific contract for the purpose of making, audit, examination, excerpts, and transcriptions in compliance with 24 CFR 85.36(i).

The Nation, any Contractor or Sub-Contractor shall retain all required records for a period of three (3) years after payment of final payment and all other pending matters are closed under this Contract in compliance with 24 CFR 85.36(i).

28. Entire Agreement: This Agreement supersedes any prior written or oral agreement between the parties concerning the subject matter of this Agreement.

The parties hereto have executed this Agreement as of the date first written above.

SEMINOLE NATION OF OKLAHOMA

\_\_\_\_\_  
Leonard M. Harjo, Principal Chief

\_\_\_\_\_  
Independent Contractor

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address